
United States Court of Appeals
For the Ninth Circuit

PENNALUNA & COMPANY, INC.
BENJAMIN A. HARRISON, and
HARRY F. MAGNUSON, *Petitioners,*

AUG 7 1939

v.

SECURITIES EXCHANGE COMMISSION,
Respondent.

PETITION FOR REVIEW OF
ORDER OF SECURITIES EXCHANGE COMMISSION

REPLY BRIEF OF PETITIONERS
PENNALUNA & COMPANY, INC.
BENJAMIN A. HARRISON, and
HARRY F. MAGNUSON

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No. 22143

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REPLY BRIEF OF PETITIONERS PENNALUNA & COMPANY, INC. BENJAMIN A. HARRISON and HARRY F. MAGNUSON

The respondent's brief (hereinafter referred to as Resp. Br.) fails almost completely to understand and meet the questions of law and fact raised in the petitioners opening brief (hereinafter cited as Br.). Petitioners will reply to the basic errors of that brief and to respondent's improper use of unfounded inferences and emphasize significant admissions. For

clarity, the headings of petitioners opening brief will be used wherever possible, with direct citation to the relevant page of respondent's brief.

I.

**THE RESPONDENT'S STATEMENT OF THE CASE
MISCONSTRUES RELEVANT FACTS AND OBSCURES
CRITICAL DETAILS, ALL IN COMPLETE DISREGARD
OF BOTH ITS RESPONSIBILITY AS A GOVERNMENT
AGENCY AND ITS OBLIGATIONS TO THIS COURT.**

The respondent neither accepts nor rejects petitioners carefully documented statement of the case. The respondent colorfully describes the background of this case and blatantly argues and editorializes in selected areas without regard for the fact finding and disclosure obligations of a government agency. The petitioners will not refute each misstatement and improper factual inference, as the direct reply is contained, whenever necessary, in the opening brief or in the additional argument contained herein. Singularly appropriate examples, however, will be set forth to emphasize the respondent's lack of elementary good faith, illustrative of the abuse of the administrative process that has characterized the entire proceeding.

The respondent infers *in its statement of the case* that Dr. F. E. Scott arranged a deal with Robert Cranmer, the president of Oil, Inc., for the purchase of Silver Buckle shares owned by that company solely

for the purpose of protecting Silver Buckle from the undeclared grasp of Steen. (Resp. Br. 16; Resp. Br. 42). Not only is there no support for this inference but the motive of Scott, whatever it might have been, is completely irrelevant. Whether or not the shares acquired by Magnuson required registration — an issue not based upon motive — is the only question raised by that transaction. The prejudicial impact of such improper inferences obviously is difficult to combat.

The respondent recites the bidding activity of Pennaluna from September, 1962 forward without setting forth the comparable activity of other brokers, even though this information is found in the Record. (Resp. Br. 19-23). A portion of the chart prepared by respondent's Division of Trading and Markets (hereinafter referred to as the Division) has been set forth at pages 1 to 8 of the Appendix to this Brief. This Court can examine the trading pattern of Pennaluna and other brokers and determine if an inference of any conduct other than normal market activity would be justified. The response of 32 brokers actively purchasing and selling Silver Buckle shares to the impact of the admittedly extensive publicity, *which the respondent disapproves but for which petitioners, even allegedly, were not responsible,*¹ is the only reliable guide for this Court.

1. See, e.g., implied criticism of West Coast annual report (Resp. Br. 29). Respondent does not point out that petitioners had nothing to do with its preparation or dissemination of any of the information contained therein. (Resp. Br. 29).

Irrelevant footnotes of fact and improper statutory references are scattered throughout the statement of the case and the argument, obviously designed to make prejudicial impressions. For instance, the respondent states, in a footnote, that the office of L. E. Nicholls & Company adjoined that of Pennaluna, inferring that an equal bid submitted by Nicholls was not independently made. (Resp. Br. 23).² The respondent refers to Section 9 of the Securities Exchange Act (15 U.S.C. 78i) (Resp. Br. 4). Since the petitioners were not charged with violating its provisions, further reference to it is not made by respondent in its argument. It should not be before this Court.

The Commission's opinion did not set forth specific findings of fact, and failed to rule upon the materiality of evidence in the Record and inferences outside the Record. Consequently, the respondent is able to pour forth the irrelevant and improper inferences developed by the Division without restraint. The continuing objection to irrelevant and immaterial matters guaranteed to the petitioners in the stipulation has been completely ignored by all those charged with a fact finding obligation. (R. 443). Respondent's statement of the case effectively illustrates the abuse to which petitioners referred in their opening brief. (Br. 75-77).

2. The inferential arguments and irrelevant facts were developed for the respondent in the Division's brief. The location of L. E. Nicholls' office is first mentioned in a footnote in the Division's brief. (R. 3799). Consequently, the Commission could have stopped this prejudicial approach, but chose instead to make no rulings whatever on the materiality or probative value of matters in and out of the Record.

II.

THE RESPONDENT'S FINDING THAT THE SILVER BUCKLE SHARES PURCHASED AND SOLD DURING 1962 AND 1963 BY PETITIONERS REQUIRED REGISTRATION UNDER SECTION 5 OF THE SECURITIES ACT (15 U.S.C. 77e) IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE (BR. 47-59).

A. The respondent required petitioners to establish an exemption from registration; under the circumstances of this case, placing the burden of proof upon petitioners constitutes an abuse of administrative due process of law.

The respondent admits that Section 7(d) of the Administrative Procedure Act, (5 U.S.C. 556(d)) applies to an administrative proceeding of this type. The respondent's argument that the Securities Act falls within the clause stating "except as otherwise provided by statute" is amazingly brief and completely lacking in authority. (Resp. Br. 36). Doesn't the "traditional allocation of the burden of proof" require the moving party to establish the validity of his contention? The Division was the proponent of the order; that it frequently shifted position shows that the burden weighed heavily upon it.³

Petitioners submit that the respondent had the burden of establishing that an "issuer," as defined by Section 2(11) of the Securities Act (15 U.S.C. 77(b)

3. The Division's changing theory of control is diagrammed in the petitioners' supplemental brief filed before the Commission and in the opening brief before this Court. (R. 4516; Br. 49). The Division maintained, under one theory, that Magnuson and a group including Scott were in control of Silver Buckle (R. 3920-3928); respondent does not answer petitioners' statement that the finding that only Scott and Magnuson were in control was a new theory, not contended for by the Division. (Br. 50 and Br. App. 112; Resp. Br. 37).

(11)), was present in each transaction; it is this burden of proof of fact — whether a 2(11) issuer (i.e. a controlling person) was present — that is the proper question before this Court. Until an “issuer” is found, the so-called “long line of authorities” cited by the respondent are not relevant. (Resp. Br. 35). In fact, the respondent admits that *S.E.C. v. Ralston Purina*, 346 U.S. 119 (1953) does not reach this question. A burden of proof should shift to a defendant in an administrative proceeding only when a presumption under law has been shown. Section 5 (15 U.S.C. 77e) does not presumptively apply unless an issuer is present. Section 7(d) of the Administrative Procedure Act (5 U.S.C. 556(d)) and basic concepts of administrative due process require the respondent, now as the proponent, to carry factual burdens when alleging a need for registration under Section 5 (15 U.S.C. 77e).

B. The “whole record” does not support the respondent’s finding that Magnuson was a member of a control group during the entire period under review; the respondent further has failed to make responsible, specific findings.

The issue is whether there is substantial evidence to support the Commission’s finding that Pennaluna sold for or on behalf of a controlling person of the issuer (R. 4612 and Br. App. 112). The issue is not whether “Harrison knew or should have known that distributions of control stock were taking place.” (Resp. Br. 44). Respondent’s twist of the issue attempts to diminish the degree of substantial evidence which this Court must find in the whole Record.

The respondent's brief admits clearly (and clarifies the Commission's opinion) that Pennaluna (through Harrison) purchased its shares directly from Oil, Inc. and New Park-East Utah (rather than circuitously through Magnuson as the Division had contended) and that those shares did not require registration. (Resp. Br. 43-46). Since Magnuson did not sell his Silver Buckle shares through Pennaluna, (with the exception of his 37½ percent interest in the so-called O'Brien transaction during May-June, 1963) Pennaluna and Harrison allegedly violated Section 5, not because of their own transactions, but because they are charged, *almost as a matter of law*, with a responsibility for Magnuson's personal, independent transactions.

Pennaluna did not sell "for" Magnuson; respondent, therefore, must show wherein Pennaluna sold "on behalf of" Magnuson. An underwriter, as defined by Section 2(11) of the Securities Act (15 U.S.C. 77(b) (11)) does not include one who simply sells "on behalf of" a controlling person (issuer) when the shares involved have not been purchased from the controlling person (issuer). The Commission's finding, even if supportable, is beyond the scope of the statute. The respondent must be required to establish a legal and factual basis for the Commission's conclusion.

The transactions in which Magnuson acquired his shares of Silver Buckle are described at pages 13-21 and 51-59 of petitioners' opening brief. That the Commission should have made specific findings for each transaction, rather than using events occurring in

December, 1962 to support a control status in May, 1962, is admitted by the respondent. (Resp. Br. 43-44).

The "substantial evidence" which this Court must find in the Record to support the respondent's opinion has been defined as follows in *Consolo v. Federal Maritime Commission*, 383 U.S. 607, 619 (1966):

"We have defined 'substantial evidence' as 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.' *Consolidated Edison Co. v. Labor Board*, 305 U.S. 197, 229, 83 L.Ed. 126, 140, 59 S. Ct. 206. '[I]t must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury.'"

The series of irrelevant and extraneous facts recited by the respondent is not "relevant evidence." (Resp. Br. 40-44). The Commission, in fact, did not base its conclusion upon these facts. The respondent asks this Court to affirm the Commission's finding and opinion by the use of facts which the Commission itself *may have found* to be immaterial and irrelevant.⁴ Again,

4. The respondent's brief refers to the fact that Magnuson was a director of Vindicator Silver-Lead Mining Company, a company in which Dr. F. E. Scott was also a director. (Resp. Br. 41). Harry F. Magnuson became an officer of Vindicator in 1949, approximately four years before Vindicator and Silver Buckle executed a working agreement for the Vindicator property. (R. 4084). He became a director on June 6, 1960, at the request of Mr. Walter Logus, the president of Vindicator, to assist him in resolving a dispute that had arisen between Dr. Scott and Mr. Logus. (R. 4084). This dispute was quite heated and Magnuson, at all times, represented Mr. Logus' interests. (R. 4102; R.4103). It was stipulated that Magnuson did not participate in any negotiation concerning the Vindicator-Silver Buckle agreement in 1953. (R. 161). The agreement was terminated by action of the shareholders of both companies during January, 1968.

the continuing but, at this point, undecided objection to the use of immaterial and irrelevant evidence, has critical significance. (R. 443).

Whether or not the petitioner Magnuson is a controlling person effects the following issues:

- (1) The status of his sales of Silver Buckle stock;
- (2) The responsibility of petitioners Pennaluna and Harrison for those transactions;
- (3) The scope of Harrison's duty and responsibility to other dealers in the wholesale market;
- (4) The presence or absence of a distribution within the concept of Rule 10b-6 (17 CFR 240.10b-6).

In the Matter of S. T. Jackson, Inc. et al, 36 S.E.C. 631 (1950) established definite criteria by which to determine the presence of a control group. The allegedly determinative facts recited by the respondent do not even approach the degree of close business and personal relationship found in that case. To rest serious and grave charges upon such a flimsy foundation is a shocking abuse of the administrative process.

III.

PETITIONERS PENNALUNA AND HARRISON DID NOT VIOLATE THE PROVISIONS OF RULE 10b-6, AS A MATTER OF LAW. (BR. 59).

The respondent accepts the petitioners' contention that a violation of Rule 10b-6 is present only if Mag-

nuson is a controlling person. (Resp. Br. 58). Further, the respondent admits that Pennaluna purchased shares of Silver Buckle directly from Oil, Inc. and from New Park-East Utah, and that these shares did not require registration. (Resp. Br. 43-46). The Commission did not establish any other basis for a distribution, within the meaning of the rule, other than the technical distribution requiring registration under Section 5. (R. 4619; Br. App. 119). Since Pennaluna and Harrison were not selling (i.e., distributing) shares which required registration, Pennaluna and Harrison were not engaged in activity which brought them within the scope of Rule 10b-6. Therefore, this finding by the Commission is clearly erroneous.

IV.

SUBSTANTIAL EVIDENCE DOES NOT SUPPORT A FINDING OF VIOLATIONS BY PETITIONERS OF THE ANTI-FRAUD PROVISIONS OF THE ACT

A. Since even the preponderance of the evidence does not establish manipulative activity, the respondent's findings and opinion are arbitrary and capricious; the "whole record" does not support respondent's conclusion.

The respondent feels that Pennaluna's bidding and trading activity was indicative of a "typical manipulative campaign," that Pennaluna purchased and sold at prices lower than its bids, and that Pennaluna's bids were artificial and designed to mislead. (Resp. Br. 55).

The following chart sets forth bid and ask quotations and the high purchase and sale figure for Pennaluna

on Mondays (as a representative day), during October, November, and December, 1962. The number of shares shown are the total number of shares purchased in one or more transactions at that price and do not necessarily represent an individual transaction or the total number of shares purchased and sold on that date. This information is contained in charts at pages 2442-2443 and 2399-2417 of the Record.

	<u>Bid and Ask</u>	<u>Total shares Purchased</u>	<u>Price</u>	<u>Total shares Sold</u>	<u>Price</u>
10-1	22 — 25	2,000	23c	2,000	25c
10-8	26 — 30	5,500	27c	14,500	28c
10-15	27 — 30	500	29c	500	30c
10-22	25 — 30	2,000	25c	300	27c
10-29	30 — 34	10,500	31c	2,000	33c
11-5	42 — 50	300	44c	7,000	45c
11-12	44 — 48	2,000	45c	11,000	46c
11-19	50 —	750	50c	1,000	52½c
11-26	60 — 67	3,000	63c	1,700	70c
12-3	75 — 80	4,000	75c	3,000	79c
12-10	60 — 70	2,800	60c	1,000	65c
12-17	80 — 90	1,700	80c	300	85c
12-26 (Wed.)	83 — 90	7,000	83c	1,000	87½c
12-31	95 —	100	1.00	3,000	1.02

A bid is not artificial when a dealer is willing to purchase a substantial number of shares for a substantial amount of money at prices equal to or *greater than* his bid. The Record confirms that Pennaluna's bids were firm, not artificial.

Pennaluna bought at least 432,600 shares during this period in many transactions at various prices in addition to the 100,000 shares purchased from New Park-East Utah on September 29, 1962. (R. 2938; App. 1). The 100,000 shares were sold *as a part of* its normal trading activity along with other shares purchased, not as the focal point of improper activity. Pennaluna's trading pattern, on its face, completely contradicts the respondent's finding of manipulation.⁵

By stipulation, Pennaluna and Harrison did not have any inside information, even if it was available, (R. 151; R. 215; Br. App. 9-14)⁶, and both petitioners Pennaluna and Harrison were entitled to participate in a normal market as a normal broker dealer. The TWX conversations are set forth in the Appendix to peti-

5. The Commission found only that Pennaluna's activities contributed substantially to the increase in trading and rise in price. (R. 4614; Br. App. 114). It did not find that Pennaluna conducted a "typical manipulative campaign."

6. Despite the stipulation, the respondent still implies that Harrison possessed inside information. (Resp. Br. 51). This is the full message, *only the unemphasized part of which was included by the respondent in the footnote:*

"May & Co. then asked, 'What is the inside on Silver Buckle, go ahead.' Harrison replied, 'I just got a new Brokerage Information Sheet out on it — giving full details. *Will mail you some. Silver Buckle is 25-30 here — close in market is 26-27.*'" (R. 229)

"Inside" logically referred to the quotes as it did in the TWX conversation set forth at page 102 of the Appendix. Respondent should check its own definition of "inside-outside" in Barrett & Co., 9 S.E.C. 319, 323 (1941).

This is the same type of prejudicial argument used by Lane Emory, the Division representative, before the Commission and which respondent now admits was improper. (Br. 71; Resp. Br. 62).

tioners brief for this Court's examination. The respondent still completely fails to understand the concept of inter-dealer communication; since the respondent is seeking to establish new obligations in the wholesale market, it should forthrightly admit its purpose rather than trying to refashion the facts of this case into a "typical manipulative campaign."

Finally, Pennaluna was long 47,873 shares of Silver Buckle on July 2, 1963, (R. 2437) which were then converted into shares of West Coast. This long position contradicts respondent's contention that a sell-off began on May 2, 1963. (Resp. Br. 28). This long position is not consistent either with knowledge of financial status of West Coast, or with an ability to control a market.

V.

CONCLUSION

Petitioners are entitled to fair play before government agencies. In addition to facts mentioned in the opening brief, it should be emphasized that petitioners waived their right to an initial hearing before a Hearing Examiner on July 30, 1965, a month and a half before the Division's opening brief, filed after the waiver and after the stipulation, presented the Division's demand for revocation and bar for the first time. Because of the nature of this proceeding, the petitioners have been denied the minimum protection of the judicial and administrative fact finding process.

This Court cannot resolve the issues herein without specific findings and a clear presentation of the basis for respondent's decision. *Berko v. Securities and Exchange Commission*, 297 F. 2d 116 (1961).

It is respectfully submitted that this Court must reverse and set aside the order of the respondent and remand this case to the respondent for a further determination consistent with the Record and respondent's administrative obligations.

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I certify that, in connection with the preparation of this Brief, I have examined Rules 18, 19 and 39 of the United States Court of Appeals for the Ninth Circuit, and that, in my opinion, the foregoing brief is in full compliance with those rules.

Laurence R. Smal

App. 2

<u>Broker</u>	<u>Location</u>	<u>Position At Beginning L: Long / S: S</u>
John J. O'Kane	N.Y.C.	-0-
Gearhart & Otis	N.Y.C.	-0-
Harris Upham		-0-
Cromer Brokerage	Salt Lake City, Utah	-0-
Wallace Brokerage	Wallace, Idaho	21500L
D. A. Davidson & Co.	Great Falls, Montana	-0-
Ingalls & Snyder	N.Y.C.	-0-
Dean Witter		-0-
Merrill Lynch P. F. & S.		-0-
Geo. D. Bonbright & Co.	Rochester, N.Y.	-0-
F. D. Ford	Spokane, Wash.	-0-
Brukenfeld & Co.	N.Y.C.	-0-
C. H. Hunter Sec.	Coeur d'Alene, Ida.	3000L
Guss & Stead Co.	Salt Lake City, Utah	-0-
Pacific Northwest Co.	Seattle, Wash.	-0-

This chart (R. 2938-2940) sets forth the total volume of purchases and sales for 92 brokers actively trading Silver Buckle shares from September 1, 1962 through December 4, 1962.

SILVER BUCKLE MINING CO.
TRANSACTIONS IN PERIOD 9-1-62 to 12-4-62
VOLUME FOR ENTIRE PERIOD: 2,512,462 SHARES

Broker	Location	Position At Beginning L: Long / S: Short	BOUGHT			SOLD		
			As Agent	As Principal	Total Bought	As Agent	As Principal	Total Sold
Pennaluna & Co.	Wallace, Idaho	27005L		532,600	532,600		562,205	562,205
G. Everett Parks & Co.	N.Y.C.	-0-		97,200	97,200		98,950	98,950
J. May & Co.	N.Y.C.	-0-	5,000	141,450	146,450	2,500	135,950	138,450
Standard Securities	Spokane, Wash.	3981L	15,700	22,913	38,613	58,100	18,550	76,650
L. E. Nicholls & Co.	Spokane, Wash.	4000L	5,000	41,000	46,000	18,000	44,000	62,000
R. E. Nelson & Co.	Spokane, Wash.	4000L	1,000	109,600	110,600	2,000	114,700	116,700
Cleek-Tindell	Spokane, Wash.	2619L		74,155	74,155		78,074	78,074
J. A. Hogle & Co.		10000L	66,720	38,000	104,720	141,450	41,100	182,550
J. L. Schiffman	Jersey City, N.J.	5300L		10,300	10,300		19,600	19,600

B O U G H T**S O L D**

<u>As Agent</u>	<u>As Principal</u>	<u>Total Bought</u>	<u>As Agent</u>	<u>As Principal</u>	<u>Total Sold</u>
	16,700	16,700		54,500	54,500
100	6,000	6,100	100	6,000	6,100
68,300		68,300	16,000		16,000
7,200	48,000	55,200	73,400	46,800	120,200
	69,500	69,500		130,850	130,850
5,000	30,150	35,150		28,750	28,750
		0	107,000		107,000
37,950		37,950	7,600		7,600
58,200		58,200	9,900		9,900
26,800		26,800	700		700
18,466	1,000	19,466			0
		0	43,300		43,300
	14,839	14,839	8,000	13,000	21,000
	2,000	2,000	2,000	13,000	15,000
9,700	1,000	10,700	12,500	1,000	13,500

App. 2

Broker	Location	Position At Beginning L: Long / S: Short	BOUGHT			SOLD		
			As Agent	As Principal	Total Bought	As Agent	As Principal	Total Sold
John J. O'Kane	N.Y.C.	-0-		16,700	16,700		54,500	54,500
Gearhart & Otis	N.Y.C.	-0-	100	6,000	6,100	100	6,000	6,100
Harris Upham		-0-	68,300		68,300	16,000		16,000
Cromer Brokerage	Salt Lake City, Utah	-0-	7,200	48,000	55,200	73,400	46,800	120,200
Wallace Brokerage	Wallace, Idaho	21500L		69,500	69,500		130,850	130,850
D. A. Davidson & Co.	Great Falls, Montana	-0-	5,000	30,150	35,150		28,750	28,750
Ingalls & Snyder	N.Y.C.	-0-			0	107,000		107,000
Dean Witter		-0-	37,950		37,950	7,600		7,600
Merrill Lynch P. F. & S.		-0-	58,200		58,200	9,900		9,900
Geo. D. Bonbright & Co.	Rochester, N.Y.	-0-	26,800		26,800	700		700
F. D. Ford	Spokane, Wash.	-0-	18,466	1,000	19,466			0
Brukenfeld & Co.	N.Y.C.	-0-			0	43,300		43,300
C. H. Hunter Sec.	Coeur d'Alene, Ida.	3000L		14,839	14,839	8,000	13,000	21,000
Gust & Stead Co.	Salt Lake City, Utah	-0-		2,000	2,000	2,000	13,000	15,000
Pacific Northwest Co.	Seattle, Wash.	-0-	9,700	1,000	10,700	12,500	1,000	13,500

B O U G H T

S O L D

<u>As Agent</u>	<u>As Principal</u>	<u>Total Bought</u>	<u>As Agent</u>	<u>As Principal</u>	<u>Total Sold</u>
	16,700	16,700		54,500	54,500
100	6,000	6,100	100	6,000	6,100
68,300		68,300	16,000		16,000
7,200	48,000	55,200	73,400	46,800	120,200
	69,500	69,500		130,850	130,850
5,000	30,150	35,150		28,750	28,750
		0	107,000		107,000
37,950		37,950	7,600		7,600
58,200		58,200	9,900		9,900
26,800		26,800	700		700
18,466	1,000	19,466			0
		0	43,300		43,300
	14,839	14,839	8,000	13,000	21,000
	2,000	2,000	2,000	13,000	15,000
9,700	1,000	10,700	12,500	1,000	13,500

App. 3

<u>Broker</u>	<u>Location</u>	<u>Position At Beginning</u> <u>L: Long / S: Short</u>	<u>B O U G H T</u>			<u>S O L O</u>		
			<u>As Agent</u>	<u>As Principal</u>	<u>Total Bought</u>	<u>As Agent</u>	<u>As Principal</u>	<u>Total Sold</u>
Walston & Co.		-0-	19,000		19,000	4,500		4,500
Richards, Merrill & Peterson....	Spokane, Wash.	-0-		4,100	4,100		4,100	4,100
Greenshields & Co.	N.Y.C.	-0-			0	14,000		14,000
J. K. Rice Jr. & Co.	N.Y.C.	-0-	3,000	7,400	10,400		7,800	7,800
May & Co. Inc.	Portland, Ore.	-0-	9,000	1,000	10,000			0
Bache & Co.		-0-	10,400		10,400	2,000		2,000
H. Hentz & Co.		-0-	7,500		7,500			0
Eastman Dillon, Union Sec.		-0-	9,000		9,000			0
Total 32 brokers					1,651,943			2,041,979
60 other brokers (less active) ..					861,519			470,483
92 brokers								
Total to agree with schedule Form 10 — Daily Transactions					2,512,462			2,512,462

This chart sets forth the daily purchases and sales by brokers during the month of September 1962.

(R. 2941-2945).

September 4, 1962

<u>PURCHASES</u>				<u>SALES</u>	
<u>For Whom Bought</u>	<u>Broker</u>	<u>Shares</u>	<u>Price</u>	<u>Broker</u>	<u>For Whom Sold</u>
Firm A/C	C. E. Ruple	200	19c	R. E. Nelson & Co.	Firm A/C
Firm A/C	Cromer Brokerage	7,000	18c	J. A. Hogle	
		<u>7,200</u>			

September 5, 1962

Firm A/C	J. A. Hogle	7,000	18c	Cromer Brokerage	Firm A/C
		<u>7,000</u>			

September 6, 1962

Wayne Fellers	F. D. Ford	2,000	16c	Pennaluna	Firm A/C
Geo. Cappas & Dea Karas Cleveland, Ohio		200	23c	C. E. Ruple	Firm A/C
J. A. McCartney Wenatchee, Wash.		500	19c	Cleck-Tindell	Firm A/C
		<u>2,700</u>			

September 7, 1962

Alfred I. Ingma Otis Orchards, Wash.	Harris Upham	1,000	17c	Pennaluna	Firm A/C
		<u>1,000</u>			

September 11, 1962

PURCHASES		SALES			
<u>For Whom Bought</u>	<u>Broker</u>	<u>Shares</u>	<u>Price</u>	<u>Broker</u>	<u>For Whom Sold</u>
Firm A/C	Gromer Brokerage	1,000	18c	J. A. Hogle	Firm A/C
Firm A/C	Cleek-Tindell	2,000	17c	Pennaluna	Firm A/C
Ernest Pappas Spokane, Wash.		<u>2,000</u>	18c	Cleek-Tindell	Firm A/C
		<u>5,000</u>			

September 12, 1962

Daniel J. Weston Concord, Calif.	Standard Securities Corp.	2,000	17 $\frac{1}{4}$ c	Pennaluna	Firm A/C
Firm A/C	L. E. Nicholls	1,000	17 $\frac{1}{4}$ c	Pennaluna	Firm A/C
Heber H. Routh Spokane, Wash.		2,000	18 $\frac{1}{2}$ c	L. E. Nicholls	Firm A/C
Heber H. Routh Spokane, Wash.		1,000	18 $\frac{1}{2}$ c	L. E. Nicholls	Firm A/C
G. H. Sonnickson Coeur d'Alene, Ida.		<u>1,000</u>	18 $\frac{1}{2}$ c	C. H. Hunter	Firm A/C
		<u>7,000</u>			

September 13, 1962

Firm A/C	L. E. Nicholls	1,000	17 $\frac{3}{4}$ c	Pennaluna	Firm A/C
Firm A/C	R. E. Nelson	<u>2,400</u>	17c	Gromer Brokerage	L. L. Gromer
		<u>3,400</u>			

er 11, 1962

<u>SALES</u>		
<u>Price</u>	<u>Broker</u>	<u>For Whom Sold</u>
18c	J. A. Hogle	Firm A/C
17c	Pennaluna	Firm A/C
18c	Cleek-Tindell	Firm A/C

er 12, 1962

17 $\frac{1}{4}$ c	Pennaluna	Firm A/C
17 $\frac{1}{2}$ c	Pennaluna	Firm A/C
18 $\frac{1}{2}$ c	L. E. Nicholls	Firm A/C
18 $\frac{1}{2}$ c	L. E. Nicholls	Firm A/C
18 $\frac{1}{2}$ c	C. H. Hunter	Firm A/C

er 13, 1962

17 $\frac{3}{4}$ c	Pennaluna	Firm A/C
17c	Cromer Brokerage	L. L. Cromer

App. 8

<u>For Whom Bought</u>	<u>PURCHASES</u>	<u>Broker</u>	<u>Sept</u>
Firm A/C		Cleek-Tindell	1,0
Rolf K. Rieger Seattle, Wash.			1,0
Firm A/C		L. E. Nicholls	2,0
Firm A/C		Cleek-Tindell	2,0
Alfred Liebel Minot, N.D.			2
Carl Dralle, Spokane, Wash.			2,0
J. Russell Tindell, Partner			2,0
Chas. S. Adams Spokane, Wash.			5
			<u>10,7</u>
Jack M. Neilson, Spokane, Wash.		J. A. Hogle	1,0
James R. Newhouse Spokane, Wash.		J. A. Hogle	1,0
Joseph Marnien Philadelphia, Pa.			0
Richard M. Plumb Missoula, Mont.			<u>2,</u>
Firm A/C		Pennaluna	100,

September 18, 1962

PURCHASES		September 18, 1962			SALES
For Whom Bought	Broker	Shares	Price	Broker	For Whom Sold
Firm A/C	Pennaluna	<u>1,000</u>	16½c	M. L. P. F. & S.	Louis Silbe
		<u>1,000</u>			Haddonfield, N.J.

September 19, 1962

B. Arthur Aspy Clarksburg, W. Va.	Standard Securities Corp.	1,000	17c	Pennaluna	Firm A/C
Mrs. Marjory B. Butcher Spokane, Wash.	Standard Securities Corp.	<u>1,000</u>	17c	Pennaluna	Firm A/C
		<u>2,000</u>			

September 24, 1962

James & Betty Sorg Sierra Madre, Calif.	Eastman Dillon	1,000	18½c	J. A. Hogle	Firm A/C
Firm A/C	Cleek-Tindell	<u>1,000</u>	17c	Pennaluna	Firm A/C
		<u>2,000</u>			

September 25, 1962

Firm A/C	Cleek-Tindell	<u>1,000</u>	17c	Pennaluna	Firm A/C
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September 26, 1962

Ted Bronstein Seattle, Wash.		<u>1,000</u>	18c	Pennaluna	Firm A/C
		<u>1,000</u>			

September 27, 1962

PURCHASES					SALES	
For Whom Bought	Broker	Shares	Price	Broker	For Whom Sold	
Firm A/C	Cleek-Tindell	1,000	17c	J. A. Hogle	Mr. Sylvan Mallenson Los Angeles, Calif.	
Rolf K. Rieger Seattle, Wash.		1,000	18½c	Pennaluna	Firm A/C	
Firm A/C	L. E. Nicholls	2,000	18½c	J. A. Hogle	Firm A/C	
Firm A/C	Cleek-Tindell	2,000	17½c	Cromer Brokerage	Fern Templon, Muncie, Ind.	
Alfred Liebel Minot, N.D.		200	20c	Johnson Lowry & Co.	Firm A/C	
Carl Dralle, Spokane, Wash.		2,000	18c	Cleek-Tindell	Firm A/C	
J. Russell Tindell, Partner		2,000	17¾c	Cleek-Tindell	Firm A/C	
Chas. S. Adams Spokane, Wash.		500	20c	Cleek-Tindell	Firm A/C	
		<u>10,700</u>				

September 28, 1962

Jack M. Neilson, Spokane, Wash.	J. A. Hogle	1,000	18c	R. E. Nelson & Co.	Firm A/C
James R. Newhouse Spokane, Wash.	J. A. Hogle	1,000	18c	R. E. Nelson & Co.	Firm A/C
Joseph Marnien Philadelphia, Pa.		100	20c	Cleek-Tindell	Firm A/C
Richard M. Plumb Missoula, Mont.		685	19c	Cleek-Tindell	Firm A/C
		<u>2,785</u>			

September 29, 1962

Firm A/C	Pennaluna	100,000	20c		New Park Mining Co.
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r 27, 1962

<u>Price</u>	<u>Broker</u>	<u>SALES</u> <u>For Whom Sold</u>
17c	J. A. Hogle	Mr. Sylvan Mallenson Los Angeles, Calif.
18½c	Pennaluna	Firm A/C
18½c	J. A. Hogle	Firm A/C
17½c	Cromer Brokerage	Fern Templon, Muncie, Ind.
20c	Johnson Lowry & Co.	Firm A/C
18c	Cleek-Tindell	Firm A/C
17¾c	Cleek-Tindell	Firm A/C
20c	Cleek-Tindell	Firm A/C

r 28, 1962

18c	R. E. Nelson & Co.	Firm A/C
18c	R. E. Nelson & Co.	Firm A/C
20c	Cleek-Tindell	Firm A/C
19c	Cleek-Tindell	Firm A/C

r 29, 1962

20c		New Park Mining Co.
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